

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NORTHEASTERN DIVISION**

<b>DAVID CHRISTIAN, et. al.,</b>	)	
	)	
<b>Plaintiffs,</b>	)	<b>Case No. 2:11cv0082</b>
	)	
<b>v.</b>	)	
	)	
<b>SWALLOWS PRODUCE, INC. and</b>	)	<b>Judge Sharp</b>
<b>JACKY R. SWALLOWS,</b>	)	
	)	<b>Magistrate Judge Brown</b>
<b>Defendants,</b>	)	
	)	
<b>and</b>	)	
	)	
<b>SWALLOWS PRODUCE, INC. and</b>	)	
<b>JACKY R. SWALLOWS,</b>	)	
	)	
<b>Third-Party Plaintiffs,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>TWO BROTHERS FARM OF</b>	)	
<b>GEORGIA, INC., a/k/a TWO</b>	)	
<b>BROTHERS FARM, INC. and MICHEL</b>	)	
<b>D. GERMAIN,</b>	)	
	)	
<b>Third-Party Defendants.</b>	)	

**AFFIDAVIT FOR DEFAULT**

I, Rachel K. Ross, having been duly sworn, hereby state under oath as follows:

1. I am over 18 years of age and competent to testify to the matters stated in this Affidavit.
2. I am counsel for Defendants/Third-Party Plaintiffs Swallows Produce, Inc. and Jacky R. Swallows ("Third-Party Plaintiffs") in the above-styled proceeding.
3. Third-Party Defendants Two Brothers Farm of Georgia, Inc. a/k/a Two Brothers Farm, Inc. and Michel Germain ("Third-Party Defendants") were served with process in

accordance with Fed. R. Civ. P. 4 on February 7, 2012.

4. Pursuant to Fed. R. Civ. P. 12, Third-Party Defendants were required to serve and file an answer, responsive pleading, and/or a motion as enumerated in Fed. R. Civ. P. 12 in response to the Summons and Third-Party Complaint on or before February 28, 2012.

5. Third-Party Defendants have not filed an answer or other responsive motion which would toll the time for compliance with this rule and that Third-Party Defendants have not made any other appearance of any kind in response to the Third-Party Complaint and Summons.

6. Therefore, Third-Party Defendants are in default.

7. To the best of my knowledge and belief, the individual Third-Party Defendant, Michel Germain, is neither incompetent nor an infant, nor in military service within the purview of the Service Members Civil Relief Act.

8. Attached hereto as Exhibit A is a report from the Department of Defense Manpower Data Center dated March 9, 2012, which states that the Department of Defense does not possess any information indicating the individual status of the individual Third-Party Defendant, Michel Germain.

9. This Declaration is made in compliance with Fed. R. Civ. P. 55(a) for the purpose of requesting that the Clerk of this Court, or lawful deputy, at this time enter an Entry of Default against Third-Party Defendants, for the purpose of presenting the matter to the Clerk and/or Court for entry of a Default Judgment against Defendant under Fed. R. Civ. P. 55(b).

I hereby certify under penalty of perjury on this the 12<sup>th</sup> day of March, 2012 that the above referenced facts are true and correct.

Rachel K. Ross

Rachel K. Ross

Sworn to and subscribed before me,

This 12 day of March, 2012.

*State of Tennessee  
County of Davidson*

Victoria J. Shaub  
Notary Public  
My Commission Expires: 8/17/2015



Firmwide:109754382.1 069208.1001